

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Establishing a 5G Fund for Rural America)	GN Docket No. 20-32
)	
)	

REPLY COMMENTS OF COMPETITIVE CARRIERS ASSOCIATION

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Table of Contents

INTRODUCTION AND SUMMARY	1
I. THERE IS OVERWHELMING SUPPORT IN THE RECORD FOR CREATING NEW MAPS IN AN EFFICIENT PROCESS BEFORE MAKING THIS NEW AWARD OF FUNDING.....	2
II. THE RECORD SUPPORTS STRUCTURING THE FUND TO MAXIMIZE THE ABILITY TO DEPLOY AND EXPAND SERVICES TO UNSERVED AND UNDERSERVED AREAS	7
CONCLUSION.....	12

INTRODUCTION AND SUMMARY

Competitive Carriers Association (“CCA”)¹ submits these reply comments regarding the *5G Fund NPRM*.²

As the Commission implements the 5G Fund, it should keep in mind that competitive wireless carriers have been on the front lines of closing the digital divide for decades. Legacy funding support recipients, including many Tier III carriers, are Universal Service Fund success stories that have provided services to consumers who otherwise might not have connectivity at all. In many instances, wireless connectivity is the only connectivity available, and wireless networks may be the lowest cost option to reach consumers in broad swaths of the country. Competitive wireless carriers, including small providers and those that serve rural areas, know their communities and the territories they serve. As the Commission implements the 5G Fund, it should look to build off previous USF investments and work to expand coverage, while preserving these existing successes, to ensure that every American has access to the robust mobile wireless connectivity that is essential in the 21st Century.

In our opening comments,³ CCA urged the Federal Communications Commission (“FCC” or “Commission”) to build the 5G Fund on a foundation of reliable broadband coverage maps, consistent with the requirements of the Broadband DATA Act. CCA also set forth several

¹ CCA is the nation’s leading association for competitive wireless providers and stakeholders across the United States. Members range from small, rural carriers serving fewer than 5,000 customers to regional and national providers serving millions of customers as well as vendors and suppliers that provide products and services throughout the wireless communications ecosystem.

² *Establishing a 5G Fund for Rural America*, Notice of Proposed Rulemaking and Order, 35 FCC Rcd. 3,994 (2020) (“*5G Fund NPRM*”).

³ Comments of Competitive Carriers Association, GN Docket No. 20-32 (filed June 25, 2020) (“CCA Comments”).

measures that the Commission should adopt to make the fund as beneficial as possible for unserved and underserved areas. The record demonstrates overwhelming support for the Commission to adopt Option B consistent with CCA's recommendation and confirms the importance of taking other sensible steps to structure the 5G Fund effectively and efficiently. We discuss those issues below, and we look forward to continuing to work with the Commission to ensure that the transition to 5G reaches the entire United States and narrows, rather than widens, the digital divide.

I. THERE IS OVERWHELMING SUPPORT IN THE RECORD FOR CREATING NEW MAPS IN AN EFFICIENT PROCESS BEFORE MAKING THIS NEW AWARD OF FUNDING

CCA's opening comments asked the Commission to produce reliable broadband coverage maps before making any new broadband deployment funding awards. CCA explained that a mapping process is required by the Broadband DATA Act,⁴ is good policy in its own right, and need not significantly delay the 5G Fund Phase 1 auction.⁵ Basing new funding awards on reliable coverage data is the best way to achieve the Commission's goal of using the 5G Fund to connect unserved Americans and narrow the digital divide as the nation transitions to 5G. As detailed below, the record establishes broad support for swift Commission action consistent with CCA's proposals.

Congress unanimously passed the Broadband DATA Act in response to the broadband mapping problems that came to a head during the Mobility Fund Phase II challenge process.⁶ The text and history of the statute make clear that the Commission is required to produce new

⁴ 47 U.S.C. §§ 642-646.

⁵ CCA Comments at 3-11.

⁶ See 166 Cong. Rec. S1660-02 (daily ed. March 10, 2020); 166 Cong. Rec. H1458-01 (daily ed. March 3, 2020).

maps before proceeding with the 5G Fund Phase 1 auction. Commissioner O’Rielly recently said that, based on the statutory language and direct communications “from a number of Senators,” he agrees that “Congress expected the Commission to use the new maps” for new broadband funding awards, “not rush ahead in creating new subsidy programs absent this important data.”⁷

The record strongly supports Commissioner O’Rielly’s conclusions and a broad array of commenters agree that the Commission is required by law to make 5G Fund awards based on new maps. AT&T, for example, said that “Option B is clearly the option that will utilize the funds most . . . consistent[ly] with Congress’s explicit directive that the Commission use better data to award new mobile broadband deployment funding.”⁸ The Coalition of Rural Wireless Carriers and CTIA each agree that Option A is a “non-starter”⁹ because “a new coverage data collection” is “required by the Broadband DATA Act.”¹⁰ Accordingly, the Commission should adhere to the law and create new maps before proceeding with the new 5G Fund auction.

In addition to the statute’s requirements, creating new maps before making major funding decisions is the better policy. We must understand where connectivity is and is not available today in order to efficiently direct scarce universal service funds to where they will be most effective. A number of commentators agree that the Commission should not conduct the auction

⁷ *Establishing the Digital Opportunity Data Collection*, Second Report and Order and Third Further Notice of Proposed Rule Making, FCC 20-94, WC Docket Nos. 19-195, 11-10, (rel. July 17, 2020) (“*DODC Order*”), Statement of Commissioner Michael O’Rielly.

⁸ Comments of AT&T Services, Inc. at 5, GN Docket No. 20-32 (filed June 25, 2020) (“AT&T Comments”).

⁹ Comments of Coalition of Rural Wireless Carriers at ii, GN Docket No. 20-32 (filed June 25, 2020) (“CRWC Comments”).

¹⁰ Comments of CTIA at 5, GN Docket No. 20-32 (filed June 25, 2020) (“CTIA Comments”).

until it “collects accurate mobile coverage data,”¹¹ instead of relying on existing data that the Commission “has already determined to be flawed.”¹² Option B, CTIA agrees, will be better at “accurately determin[ing] eligible areas” than Option A, which relies on “disparate data sources created for other proposes.”¹³ Other commenters also warn that the “the risk of data inaccuracies”¹⁴ cautions against rushing this process, because failure to fix the maps “runs a very real risk of . . . withholding support from those areas that need it most.”¹⁵ CCA urges the Commission not to risk inefficient deployment of this critical 5G funding by basing it on unreliable maps or projections of where other carriers might deploy 5G in the future.¹⁶

In the *5G Fund NPRM*, the Commission said it would use the Digital Opportunity Data Collection proceeding to address the Broadband DATA Act’s requirements.¹⁷ A majority of the Commissioners’ statements accompanying the *DODC Order* highlight the importance of new broadband coverage maps. Commission O’Rielly called the existing maps “woefully inadequate for determining broadband coverage and service.”¹⁸ Commissioner Rosenworcel cited a study that found the existing maps to have an error rate of almost 40% and cautioned that “[w]

¹¹ Comments of California Public Utilities Commission at 2, GN Docket No. 20-32 (filed June 25, 2020) (“CPUC Comments”).

¹² Comments of Massachusetts Department of Telecommunications and Cable at 8, GN Docket No. 20-32 (filed June 24, 2020) (“MDTC Comments”).

¹³ CTIA Comments at 6.

¹⁴ Comments of Healthcare Information and Management Systems Society and Personal Connected Health Alliance at 3, GN Docket No. 20-32 (filed June 25, 2020).

¹⁵ Comments of Vermont Department of Public Service at 2-3, GN Docket No. 20-32 (filed June 25, 2020).

¹⁶ The Commission should determine eligible areas based on the coverage maps that carriers provide, rather than singling out the business plans of one carrier.

¹⁷ *5G Fund NPRM* ¶ 37 n.64.

¹⁸ *Id.*, Statement of Commissioner Michael O’Rielly.

shouldn't be so cavalier with public dollars—especially when they are being spent to solve the digital divide and make sure the future is more evenly distributed.”¹⁹ Commissioner Starks said revised maps are necessary to have “a clear and complete understanding of the challenges we face” in “solving internet inequality.”²⁰ Many commenters and the majority of the Commission agree that the \$8 billion slated for Phase I of the 5G Fund should not be awarded based on data sources that the Commission concedes “do not really reflect actual on-the-ground coverage in many instances.”²¹

Contrary to the estimate in the *5G Fund NPRM*, Option B need not “significantly delay” Phase I funding awards.²² Congress’s guidance in the Broadband DATA Act and lessons learned from the Mobility Fund II process will allow the Commission to quickly complete the mapping process. In fact, with the recent *DODC Order*, the Commission has already taken a significant step forward in implementing the Broadband DATA Act by adopting final rules or initiating an expedited comment cycle on the rules mandated by the statute.²³ Numerous commenters agree that the Commission can comply with the Broadband DATA Act and conduct an auction before 2023, even without a special appropriation from Congress. Verizon and the Coalition for Rural Wireless Carriers, for example, both agree that the Commission could implement Option B on an accelerated timeline that should allow the Phase I auction to be held by mid-2022.²⁴

Commenters also agree that, while Congress has not passed a specific appropriation for the

¹⁹ *DODC Order*, Statement of Commissioner Jessica Rosenworcel.

²⁰ *Id.*, Statement of Commissioner Geoffrey Starks.

²¹ *5G Fund NPRM* ¶ 34.

²² *Id.* ¶ 37.

²³ *DODC Order* ¶¶ 2-3.

²⁴ See Comments of Verizon at 7, GN Docket No. 20-32 (filed June 25, 2020) (“Verizon Comments”); CRWC Comments at 14.

mapping process, the Broadband DATA Act “does not limit the Commission’s discretion to use otherwise available funding”²⁵ to make new maps and the Commission should “immediately assemble the resources it will need.”²⁶ The Commission has already made significant progress on implementing Option B with the recent *DODC Order*, and CCA urges the Commission to act swiftly to ensure that the 5G Fund auction will take place in short order using updated maps.

Some commentators agree that the Commission should reject Option A, but advance complicated or delayed alternatives to the accelerated version of Option B that CCA proposes. The California Public Utilities Commission, for example, proposes that the Commission should conduct a separate auction for states that collect and submit their own mobile broadband coverage data.²⁷ CCA agrees that the Commission should only hold the Phase I auction after “collecting more accurate mobile coverage data,”²⁸ but implementing different processes for different states introduces substantial unnecessary complexity into the auction process and may exacerbate the connectivity divide between the states. Similarly, while CCA agrees with the Cherokee Nation that Option A should be rejected, the Commission should not delay the 5G Fund until after “tribes begin to experience the results of the 2.5 GHz Rural Tribal Priority Window and the Rural Digital Opportunity Fund.”²⁹ Addressing significant disparities in broadband access on Tribal lands does not require an indeterminate suspension of this proceeding. Based on the anticipated schedule of upcoming auctions, a 5G Fund auction will likely take place after these auctions in any event, but the Commission and all affected parties

²⁵ CRWC Comments at 16 (emphasis removed).

²⁶ MDTC Comments at 3.

²⁷ See CPUC Comments at 3.

²⁸ *Id.* at 2.

²⁹ Comments of Cherokee Nation at 1, GN Docket No. 20-32 (filed June 25, 2020).

should proceed apace with all of the work that will lead up to the 5G Fund auction. And the vast majority of commenters agree that the 5G Fund should not be delayed any longer than is necessary to create reliable coverage maps.

Given the strong support in the record and in recent comments by the Commissioners, CCA encourages the Commission to move quickly to pursue Option B on a substantially more rapid timeline than estimated in the *5G Fund NPRM*.

II. THE RECORD SUPPORTS STRUCTURING THE FUND TO MAXIMIZE THE ABILITY TO DEPLOY AND EXPAND SERVICES TO UNSERVED AND UNDERSERVED AREAS

Just as many commenters support pursuing Option B on an appropriately accelerated timeline, there is broad support in the record for several implementation decisions that will ensure that the 5G Fund successfully connects unserved and underserved areas.

Budget and Structure of Funding. CCA encourages the Commission to structure the 5G Fund in a manner that will achieve its ambitious goals to “support[] the deployment of 5G networks” and to “ensure that rural America can secure the economic and technological benefits that come from wireless innovation,” “narrow[ing] the digital divide” for services that will rapidly increase in importance in coming years.³⁰ In particular, the *5G Fund NPRM* sets an “objective of supporting 5G service that is reasonably comparable to service available in urban areas.”³¹

The \$9 billion the Commission proposes to allocate to the 5G Fund is critical to narrowing the digital divide, but is likely substantially insufficient to achieve the goals of the fund. Observers have predicted that “telecom operators will invest as much as \$275 billion

³⁰ *5G Fund NPRM* ¶¶ 16, 18.

³¹ *Id.* ¶ 46.

nationwide over seven years as they build out 5G.”³² And several commenters note that the starting budget of \$9 billion will ultimately need to be increased.³³ The Commission should take a hard look at the funding needed to actually achieve its goals when it “reassess[es] the budget for the 5G Fund Phase II auction following the 5G Fund Phase I auction.”³⁴ Many Americans will only ever obtain broadband via a mobile service because mobile wireless connectivity is the only connectivity that is likely to be economically feasible in broad areas of America, even with USF support. For these Americans, mobile broadband is not a luxury or a supplement to other broadband services, but rather is their only broadband link to the world. The Commission allocated over \$20 billion for the Rural Digital Opportunity Fund, and if the Commission wants to take a comprehensive and cohesive approach to completely closing the digital divide, it should make mobile wireless connectivity an equivalent priority to other forms of connectivity.

The Commission should reject proposals to wait years before distributing needed funding, such as proposals to “divide the budget evenly” between Phase I and Phase II.³⁵ Rural and underserved areas cannot afford to treat Phase I of the auction as a “test” run for Phase II years later, as Verizon suggests they should.³⁶ Rather, the Commission should distribute as much of the fund as possible through a Phase I auction. Distributing the bulk of funds upfront also reflects the necessary investment costs to deploy infrastructure, which requires substantial

³² Accenture, *Tackling the cost of a 5G build* (Aug. 3, 2018), <https://www.accenture.com/us-en/insights/strategy/5g-network-build>.

³³ E.g., Comments of AST&Science LLC at 26, GN Docket No. 20-32 (filed June 25, 2020); CRWC Comments at 23-24.

³⁴ *5G Fund NPRM* ¶ 46.

³⁵ Verizon Comments at 3.

³⁶ *Id.* at 4.

upfront capital expenditures in addition to ongoing operating expenditures.³⁷ The Commission’s proposal to commit \$8 billion in Phase I and reassess the budget for Phase II will give it plenty of opportunity to distribute funding for initial investment costs and targeting it efficiently, without stalling progress in delivering 5G to Americans in all areas of the country. If anything, the Commission should use the gap between Phase I and Phase II to consider increasing the size of the fund. The Commission should similarly reject proposals to divide the current funding into multiple phases,³⁸ as adopting Option B on an accelerated timeline as discussed above makes those proposals unnecessary to begin quickly distributing funds to rural and remote areas.

Geographic Area Size. CCA continues to encourage the Commission to use an appropriately sized geographic unit that will facilitate bidding and deployment and reflect the contiguous nature of mobile networks.³⁹ Some commenters favor census block groups,⁴⁰ while others favor census tracts.⁴¹ Either of those options is worth consideration, but a unit as small as a census block⁴² could threaten the ubiquity of wireless networks. A middle-ground approach like census tracts or census block groups would avoid that pitfall, while not creating units too large that buildout milestones could become unreasonable.

³⁷ See, e.g., *Connect America Fund et al.*, 26 FCC Rcd. 17663, ¶ 464 & n.768 (2011) (“2011 Order”) (noting that Verizon urged the Commission to provide money to recipients up front because “investment costs to deploy infrastructure will be significant”).

³⁸ See Comments of Rural Wireless Association, Inc. at 1-8, GN Docket No. 20-32 (filed June 25, 2020) (“RWA Comments”); Comments of NTCA—The Rural Broadband Association at 4-7, GN Docket No. 20-32 (filed June 25, 2020).

³⁹ CCA Comments at 13.

⁴⁰ E.g., AT&T Comments at 11.

⁴¹ E.g., Comments of New York State Public Service Commission at 4, GN Docket No. 20-32 (filed June 25, 2020); RWA Comments at 9.

⁴² See, e.g., CPUC Comments at 5 n.13.

Services Eligible for Support. CCA continues to urge the Commission to make room in the 5G Fund for deployments like 4G LTE-A that are upgradeable to 5G.⁴³ 4G LTE-Advanced (“4G LTE-A”) is IP-based, as is 5G, and winning bidders should be able to deploy upgradeable radios and 4G-LTE service that can be transitioned to 5G, essentially with a software update. Further, 4G LTE-A service is much more attainable in some areas than is 5G and better reflects the current demand and user equipment that exists in these areas.⁴⁴ If the objective of the 5G Fund is to ensure that unserved and underserved areas receive 5G service as quickly as possible, insisting only on 5G deployments now could even be counter-productive, as the cost may be too high for the fund to support a leap from 2G or 3G directly to 5G in some areas. CCA urges the Commission to consider including in this program future-proofed 4G LTE-A deployments that offer a path to 5G while helping meet current needs. As discussed in CCA’s opening comments, the Commission can support 4G LTE-A while still specifically supporting 5G, whether through weighing bids for 5G over bids for 4G LTE-A or by requiring winning bidders to upgrade from 4G LTE-A to 5G on a specified timeframe.⁴⁵

Even if the Commission does exclude 4G LTE-A from the 5G Fund, it should keep in mind that 5G is a technology, not a particular speed, and therefore that there is no specific speed threshold that defines 5G connectivity. While many of the service benchmarks the Commission

⁴³ See CCA Comments at 13-15.

⁴⁴ For example, a recent study predicted that 5G connections are unlikely to surpass 50% of mobile connections before 2025. *Share of Mobile Connections by Technology in North America from 2015 to 2025*, Statista.com (June 9, 2020), <https://www.statista.com/statistics/933055/mobile-connections-share-2g-3g-4g-5g-north-america/>. The Commission should allow technological realities and market conditions to determine the timing of the transition to 5G rather than deciding via regulatory fiat when carriers must deploy 5G.

⁴⁵ *Id.* at 14.

has proposed are reasonable,⁴⁶ the Commission should not require 35/3 Mbps service in all areas, as this is an arbitrary threshold that does not bear any connection to 5G as a technology. 5G will be deployed in all spectrum bands, but in rural America many deployments likely will rely principally on low band and mid band spectrum, which offer the possibility of broad coverage but may not allow for the speed bursts that are possible in high-band deployments. For the 35/3 Mbps speed to be feasible in all areas, carriers likely would need to incur costs significantly greater than the *5G Fund NPRM* contemplates. If the Commission must set a minimum speed to confirm successful deployment, it should set one lower than 35/3 Mbps.

Verification of Compliance. After the Commission corrects the flawed broadband coverage mapping process, as it is doing in the Digital Opportunity Data Collection, the most efficient way for the Commission to verify coverage will be the submission of updated service maps. The Commission should adopt requirements with that understanding, and without imposing unnecessary burdens on bidders.⁴⁷ Indeed, milestone payments should be tied to the submission of updated maps that establish the satisfaction of the milestone, rather than waiting for potentially lengthy drive tests. If drive testing or sampling is needed to verify coverage, the tests should be done by carriers, rather than USAC; CCA's members know their territories and footprints well, and placing this responsibility on USAC has in the past led to significant delays and problems. Finally, any crowd-sourced data should be used exclusively to supplement and confirm carriers' propagation maps, rather than as a principle source of data.

Transition of Legacy Support. The Commission's guiding principle in overseeing the transition to the 5G Fund must be to efficiently make new funding available but to ensure that

⁴⁶ See *id.* at 15.

⁴⁷ See *id.* at 15-16.

existing funds remain in place long enough to avoid creating a gap that threatens the provision of service. Carriers have been investing legacy funding in ongoing network upgrades, and this funding is critical to continuing providing service where it is needed. The Commission contemplated a careful transition in the *2011 Order*, noting that “[m]obile broadband carriers will receive significant legacy support during the transition to the Mobility Fund.”⁴⁸ The transition of legacy funding therefore should be linked to the completion of the 5G Fund auction and the actual distribution of new finding.

Use of Funds. Finally, the *5G Fund NPRM* notes the Commission’s view that T-Mobile should not be permitted to use 5G Fund proceeds to fulfill conditions of its merger with Sprint.⁴⁹ AT&T urges the Commission to adopt that proposal.⁵⁰ But AT&T has also publicly committed to deploy FirstNet on a nationwide basis, and did so without the promise of USF funding to achieve that deployment. As with T-Mobile’s merger commitments, the Commission should similarly specify that any carrier that has already made a commitment to serve without USF subsidies, such as AT&T has done with FirstNet, should not be permitted to draw from the 5G Fund to fulfill those commitments.

CONCLUSION

CCA supports the Commission’s proceeding quickly to a final order adopting Option B on an appropriately accelerated timeline and structuring the 5G Fund consistent with our recommendations. The 5G Fund will set the course of 5G service in large swaths of the country, and we look forward to continued engagement with the Commission in this important work.

⁴⁸ *2011 Order* ¶ 28; *see also id.* ¶¶ 512-32 (describing transition process meant to “avoid shocks to service providers that may result in service disruptions for consumers”).

⁴⁹ *5G Fund NPRM* ¶ 23.

⁵⁰ *AT&T Comments* at 13.

Respectfully submitted,

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